

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	ORDER CLARIFYING AND
BY BLACK HILLS FIBERCOM, L.L.C., RAPID)	AMENDING ORDER
CITY, SOUTH DAKOTA, AGAINST QWEST)	
CORPORATION REGARDING INTRASTATE)	CT03-154
SWITCHED ACCESS CHARGES APPLIED TO)	
ISP-BOUND CALLS WHICH COMPLAINANT)	
CLAIMS ARE INTERSTATE IN NATURE)	

On October 29, 2003, the Public Utilities Commission (Commission) received a complaint filed by Black Hills FiberCom, L.L.C., Rapid City, South Dakota (FiberCom), against Qwest Corporation (Qwest) regarding intrastate switched access charges applied to ISP-Bound calls. On February 24, 2005, the Commission issued an order entitled Final Decision and Order; Notice of Entry (Order). In the Order, the Commission found and concluded that the docket should remain open for an additional 90 days to enable the parties to further address the issue of damages in light of the Commission's findings and conclusions on jurisdiction and liability. It was the intent of the Commission that the Order function as an interim order pending the final resolution of the outstanding issues in the case and that the parties would not be required to pursue their appeal or other post-decision remedies until the final resolution of the case and entry of a final dispositive order.

The attorneys for the parties have brought it to the Commission's attention that the Order, as captioned and containing a notice of entry as well as the 90 day continuing pendency language, is ambiguous as to whether it constitutes a final order from which appeal or reconsideration must either be taken within the statutory period or be lost. The Commission therefore issues this Order Clarifying and Amending Order to correct this ambiguity and clarify that the Commission's original intent that the Order issued on February 24, 2005, was not intended to be the final dispositive order in this matter, but that the final decision and order would be issued after the conclusion of the 90 day pendency period and any resulting proceedings arising therefrom. It is therefore

ORDERED, that the order entitled "Final Decision and Order; Notice of Entry" issued on February 24, 2005, is amended as set forth on the attached Amended Interim Decision and Order; and it is further

ORDERED, that the Amended Interim Decision and Order be issued on the date hereof; and it is further

ORDERED, that the 90 day pendency period for the parties' resolution of the damages issues shall be shortened to 70 days to reflect the approximate elapse of time since the "effective" date of the original order, which 70 day period shall commence to run as of the date of issuance of this Order Clarifying and Amending Order and of the Amended Interim Decision and Order; and it is further

ORDERED, that it is the intent of the Commission that the period for the parties' exercise of their right to request rehearing or reconsideration under ARSD 20:10:01:30.1 or their right to appeal under SDCL 1-26-31 shall not begin to run until the Commission has issued its final decision in this case disposing of the outstanding issues.

Dated at Pierre, South Dakota, this 14th day of March, 2005.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: _____

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

GARY HANSON, Chairman

ROBERT K. SAHR, Commissioner